

## National Indian Gaming Commission, Interior

## § 518.7

(ii) Monitors the gaming revenues accounting system for continued effectiveness;

(iii) Performs routine operational or other audits of the Class II gaming activities;

(iv) Routinely receives and reviews gaming revenue accounting information from the gaming operation(s);

(v) Has access to, and may inspect, examine, photocopy and audit, all papers, books, and records of the gaming operation(s) and Class II gaming activities;

(vi) Monitors compliance with minimum internal control standards for the gaming operation;

(vii) Has adopted and is implementing an adequate system for investigating, licensing, and monitoring of all employees of the gaming activity;

(viii) Maintains records on licensees and on persons denied licenses, including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction;

(ix) Establishes standards for, and issues, vendor licenses or permits to persons or entities who deal with the gaming operation, such as manufacturers and suppliers of services, equipment and supplies;

(x) Establishes or approves the rules governing Class II games, and requires their posting;

(xi) Has adopted and is implementing an adequate system for the investigation of possible violations of the tribal gaming ordinance and regulations, and takes appropriate enforcement actions; and

(xii) Takes testimony and conducts hearings on regulatory matters, including matters related to the revocation of primary management officials, key employee and vendor licenses;

(6) The tribe allocates and appropriates a sufficient source of permanent and stable funding for the tribal regulatory body;

(7) The tribe has adopted and is implementing a conflict of interest policy for the regulators/regulatory body and their staff;

(8) The tribe has adopted and is implementing a system for adequate prosecution of violations of the tribal gaming ordinance and regulations or referrals for prosecution; and

(9) The tribe demonstrates that the operation is being conducted in a manner which adequately protects the environment and the public health and safety.

(c) The tribe assists the Commission with access and information-gathering responsibilities during the certification process.

(d) The burden of establishing self-regulation is upon the tribe filing the petition.

### **§ 518.6 What are the responsibilities of the Office of Self-Regulation in the certification process?**

The Office of Self-Regulation shall be responsible for directing and coordinating the certification process. It shall provide a written report and recommendation to the Commission as to whether a certificate of self-regulation should be issued or denied, and a copy of the report and recommendation to the petitioning tribe.

### **§ 518.7 What process will the Commission use to review and certify petitions?**

(a) Petitions for self-regulation shall be submitted by tribes to the Office of Self-Regulation.

(1) Within 30 days of receipt of a tribe's petition, the Office of Self-Regulation shall conduct a review of the tribe's petition to determine whether it is complete under § 518.4.

(2) If the tribe's petition is incomplete, the Office of Self-Regulation shall notify the tribe by letter, certified mail or return receipt requested, of any obvious deficiencies or significant omissions in the petition. A tribe with an incomplete petition may submit additional information and/or clarification within 30 days of receipt of notice of an incomplete petition.

(3) If the tribe's petition is complete, the Office of Self-Regulation shall notify the tribe in writing.

(b) Once a tribe's petition is complete, the Office of Self-Regulation shall conduct a review to determine whether the tribe meets the eligibility criteria in § 518.3 and the approval criteria in § 518.5. During its review, the Office of Self-Regulation:

(1) May request from the tribe any additional material it deems necessary

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to assess whether the tribe has met the criteria for self-regulation.

(2) Will coordinate an on-site review and verification of the information submitted by the petitioning tribe.

(c) Within 120 days of notice of a complete petition under §518.4, the Office of Self-Regulation shall provide a recommendation and written report to the full Commission and the petitioning tribe.

(1) If the Office of Self-Regulation determines that the tribe has satisfied the criteria for a certificate of self-regulation, it shall recommend to the Commission that a certificate be issued to the tribe.

(2) If the Office of Self-Regulation determines that the tribe has not met the criteria for a certificate of self-regulation, it shall recommend to the Commission that it not issue a certificate to the tribe.

(3) The Office of Self-Regulation shall make all information, on which it relies in making its recommendation and report, available to the tribe, subject to the confidentiality requirements in 25 U.S.C. 2716(a), and shall afford the tribe an opportunity to respond.

(4) The report shall include:

(i) Findings as to whether each of the eligibility criteria is met, and a summary of the basis for each finding;

(ii) Findings as to whether each of the approval criteria is met, and a summary of the basis for each finding;

(iii) A recommendation to the Commission as to whether it should issue the tribe a certificate of self-regulation; and

(iv) A list of any documents and other information received in support of the tribe's petition.

(5) A tribe shall have 30 days from the date of issuance of the report to submit to the Office of Self-Regulation a response to the report.

(d) After receiving the Office of Self-Regulation's recommendation and report, and a tribe's response to the report, the Commission shall issue preliminary findings as to whether the eligibility and approval criteria are met. The Commission's preliminary findings will be provided to the tribe within 45 days of receipt of the report.

(e) Upon receipt of the Commission's preliminary findings, the tribe can re-

quest, in writing, a hearing before the Commission, as set forth in §518.8. Hearing requests shall be made to the Office of Self-Regulation, and shall specify the issues to be addressed by the tribe at the hearing and any proposed oral or written testimony the tribe wishes to present.

(f) The Commission shall issue a final determination 30 days after issuance of its preliminary findings or after the conclusion of a hearing, if one is held. The decision of the Commission to approve or deny a petition shall be a final agency action.

(g) A tribe may withdraw its petition and resubmit it at any time prior to the issuance of the Commission's final determination.

[78 FR 20241, Apr. 4, 2013, as amended at 78 FR 37115, June 20, 2013]

### §518.8 What is the hearing process?

(a) Within 10 days of receipt of the request for a hearing, the Office of Self-Regulation shall notify the tribe of the date and place of the hearing. The notice shall also set a hearing schedule, the time allotted for testimony and oral argument, and the order of the presentation.

(1) To the extent possible, the hearing will be scheduled not later than 60 days after the notice is issued, and the hearing schedule will be issued at least 30 days prior to the hearing.

(2) [Reserved]

(b) The Commission shall issue a decision on the petition within 30 days after the hearing's conclusion. The decision shall set forth, with particularity, findings regarding the tribe's satisfaction of the self-regulation standards in this Part. If the Commission determines that a certificate will issue, it will do so in accordance with §518.9 of this part.

(c) The decision of the Commission to approve or deny a petition shall be a final agency action.

[78 FR 20241, Apr. 4, 2013, as amended at 78 FR 37115, June 20, 2013]

### §518.9 When will a certificate of self-regulation become effective?

A certificate of self-regulation shall become effective on January 1 of the year following the year in which the